

ORDINANCE NO. 93-15

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, TO BE KNOWN AS THE PALM BEACH COUNTY STORMWATER POLLUTION PREVENTION ORDINANCE: PROVIDING FOR SHORT TITLE, APPLICABILITY AND AUTHORITY; PROVIDING A PURPOSE; PROVIDING DEFINITIONS; PROVIDING EXEMPTIONS; PROVIDING REQUIREMENTS; PROVIDING PROHIBITIONS; PROVIDING MATERIALS MANAGEMENT PRACTICES; PROVIDING FOR MONITORING; PROVIDING FOR VIOLATIONS, ENFORCEMENT AND PENALTIES; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, there is a need to protect Palm Beach County's surface water resources; and

WHEREAS, stormwater runoff and non-stormwater discharges from the stormwater system are major contributors of pollution to Palm Beach County's canals, lakes, and estuaries; and

WHEREAS, the stormwater pollutant load must be reduced to maintain or restore beneficial uses of our water bodies; and

WHEREAS, non-stormwater discharges to the stormwater system represent a significant source of pollution in waters receiving such discharges; and

WHEREAS, materials that may contribute to contamination of stormwater runoff are often stored exposed to precipitation; and

WHEREAS, there are management practices available to reduce the potential for surface water quality degradation resulting from stormwater runoff; and

WHEREAS, the United States Environmental Protection Agency (EPA), empowered by the 1987 revision of the Clean Water Act, requires through the National Pollutant Discharge Elimination System (NPDES) Permit Applications Regulations for Stormwater Discharges that Palm Beach County effectively prohibit non-stormwater discharges into the stormwater system.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY FLORIDA that:

1 Section 1. SHORT TITLE; APPLICABILITY; AUTHORITY.

2 1.01 This Ordinance shall be known as the "Palm Beach  
3 County Stormwater Pollution Prevention Ordinance."

4 1.02 Applicability. The provisions of this Ordinance  
5 shall apply to the following stormwater systems:

6 (a) All stormwater systems owned and operated by Palm  
7 Beach County, except for stormwater systems in  
8 municipalities with legal authority specifically  
9 providing enforcement of County stormwater systems.

10 (b) All stormwater systems owned and operated by the  
11 Florida Department of Transportation in Palm Beach  
12 County pursuant to the provisions of any valid joint  
13 participation agreement entered into between the  
14 Florida Department of Transportation and Palm Beach  
15 County.

16 (c) All stormwater systems within unincorporated areas  
17 of Palm Beach County.

18 1.03 This Ordinance is adopted under the authority of  
19 Article VII, Section 1 of the Florida Constitution, Chapter  
20 125, Florida Statutes (F.S.), and the Palm Beach County  
21 Charter.

22  
23 Section 2. PURPOSE.

24 The purpose of this Ordinance is to improve the quality  
25 of stormwater discharges to the stormwater system; to  
26 promote the use of pollution prevention practices by  
27 commercial and industrial facilities; to provide an  
28 educational tool and increase public awareness of all  
29 stormwater discharges; and to address the causes of non-  
30 point source pollution, which degrade the quality of Palm  
31 Beach County's surface water resources on a source  
32 control basis. The purpose of this Ordinance is not to  
33 regulate discharge from one "Waters of the State" into  
34 another "Waters of the State".  
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1 Section 3. DEFINITIONS.

2 3.01 The following definitions apply within this  
3 Ordinance:

4 (a) Agriculture, bona fide means any plot of land where  
5 the principal use is bona fide agricultural, meaning  
6 the raising of crops inclusive of organic farming or  
7 animals inclusive of aquaculture or production of  
8 animal products such as eggs or dairy products  
9 inclusive of apiculture, or a wholesale nursery on  
10 an agricultural or commercial basis. A  
11 determination as to whether the use of the land for  
12 agriculture is bona fide shall only be made where  
13 both the Designation Criteria and Productivity  
14 Standards, as listed in the Palm Beach County  
15 Unified Land Development Code (ULDC), Section 3.2.,  
16 under Agricultural, bona fide, are met.

17 (b) Authorized Official. Any authorized agent or  
18 employee of the County whose duty is to ensure  
19 compliance with the provisions of this Ordinance,  
20 including, but not limited to the Department of  
21 Environmental Resources Management (ERM), Department  
22 of Engineering and Public Works, Department of  
23 Planning, Zoning & Building and the Palm Beach  
24 County Public Health Unit (PBCPHU).

25 (c) Discharge. The direct or indirect release of any  
26 solid or liquid material.

27 (d) Facility. Main structures, accessory structures and  
28 activities which store, handle, use or produce  
29 stormwater contaminants listed in Section 5. of this  
30 Ordinance.

31 (e) Groundwater and Natural Resources Protection Board.  
32 That Board designated by the Board of County  
33 Commissioners of Palm Beach County, to hear alleged  
34 violations of this Ordinance and other State and  
35 Local laws protecting the groundwater and natural  
36 resources of Palm Beach County.

- 1 (f) Illicit connection means any connection to a the  
2 stormwater system that allows any discharge that is  
3 not composed entirely of stormwater.
- 4 (g) Illicit discharge means any discharge to the  
5 stormwater system that is not composed entirely of  
6 stormwater.
- 7 (h) Non-stormwater discharge. Any release of solid or  
8 liquid material that is not composed entirely of  
9 stormwater.
- 10 (i) Person. Any individual, corporation, firm,  
11 association, joint venture, partnership,  
12 municipality, government agency, political  
13 subdivision, public officer, owner, lessee, tenant  
14 or any other entity whatsoever or any combination of  
15 such, jointly or severally.
- 16 (j) Pesticide. Any substance or mixture of substances  
17 intended for preventing, destroying, repelling, or  
18 mitigating any insects, rodents, nematodes, fungi,  
19 weeds, or other forms of plant or animal life,  
20 except viruses, bacteria, or fungi on or living in  
21 man or other animals, which the Florida Department  
22 of Agriculture and Consumer Services declares to be  
23 a pest, and any substance or mixture of substances  
24 intended for use as a plant regulator, defoliant, or  
25 desiccant. This includes fungicides, herbicides,  
26 insecticides, nematocides and rodenticides.
- 27 (k) Stormwater. The flow of water which results from,  
28 and which occurs immediately following, a rain  
29 event.
- 30 (l) Stormwater Pollution. The presence in stormwater of  
31 any one or more substances or contaminants in  
32 quantities which are or may be potentially harmful  
33 or injurious to human health or welfare, animal or  
34 plant life, or property, or unreasonably interfere  
35 with the enjoyment of life or property.
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1 (k) Stormwater System. The system of conveyances used  
2 for collecting, storing, and transporting  
3 stormwater.  
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5 Section 4. EXEMPTIONS

6 4.01 Exempted Activities. The following discharges are  
7 exempt from the prohibitions and requirements of this  
8 Ordinance:

- 9 (a) Discharges permitted pursuant to Chapter 403,  
10 F.S., provided that a Water Pollution Operating  
11 Permit or Temporary Permit issued by the  
12 Florida Department of Environmental Protection  
13 (DEP) is in effect. Wastewater discharges  
14 permitted by the DEP pursuant to State  
15 administration of the NPDES shall also be  
16 exempted provided that the permit issued by DEP  
17 remains in effect. Emergency discharges  
18 related to a wastewater utility sanitary sewer  
19 conveyance system failure.
- 20 (b) The direct or indirect discharge as a result of  
21 the application of pesticides, including  
22 maintenance herbicide application within  
23 designated water management facilities or  
24 insecticide application related to mosquito  
25 control activities, provided that the  
26 application is performed in accordance with  
27 registered label instructions using only  
28 chemicals approved for the particular use by  
29 the EPA or by the State of Florida Department  
30 of Agriculture and Consumer Services, and in  
31 accordance with all applicable state and  
32 federal rules and regulations.
- 33 (c) Discharges from on-site sewage disposal systems  
34 which are permitted or approved by the PBCPHU,  
35 pursuant to the ULDC, Section 7.10.
- 36 (d) Discharges associated with dewatering  
37 operations which are permitted by the South

1 Florida Water Management District (SFWMD),  
2 provided that the permit issued by SFWMD  
3 remains in effect.

4 (e) Discharges from stormwater retention or  
5 detention facilities in compliance with the  
6 conditions of all required Surface Water  
7 Management Permits issued under the authority  
8 of SFWMD.

9 (f) Discharges from facilities with valid NPDES  
10 Permits for Discharges Associated with  
11 Industrial Activities issued under the  
12 authority of EPA.

13 (g) Discharges from bona fide agricultural use  
14 activities.

15 (h) The following discharges: Flows from fire  
16 fighting, water line flushing and other  
17 contributions from potable water sources,  
18 rising groundwaters, direct infiltration to the  
19 storm water system, uncontaminated pumped  
20 groundwater, foundation and footing drains, air  
21 conditioning condensation, individual  
22 residential car washing, flows from riparian  
23 habitats and wetlands, and swimming pool  
24 contributions.

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26 Section 5. REQUIREMENTS.

27 Discharge of substances or contaminants that cause or  
28 contribute to stormwater pollution into the stormwater system  
29 shall be reduced to the maximum extent practical. Examples of  
30 such substances or contaminants include, but is not limited to  
31 the following:

- 32 (a) Acids and Alkalis;
- 33 (b) Animal carcasses;
- 34 (c) Animal and pet waste;
- 35 (d) Antifreeze or other automotive products;
- 36 (e) Chemicals and Heavy metals;
- 37 (f) Chemically treated cooling water;
- 38 (g) Chlorinated water or chlorine;
- 39 (h) Construction materials;
- 40 (i) Degreasers, Solvents;
- 41 (j) Drainage or leachate from solid waste containers;
- 42 (k) Flammable liquids;
- 43 (l) Heated water;



- (m) Laundry waste;
- (n) Lawn clippings, leaves or branches;
- (o) Paints;
- (p) Pesticides and Fertilizers;
- (q) Petroleum products, including but not limited to oil, diesel, gasoline and grease;
- (r) Recreational vehicle waste;
- (s) Sanitary sewage;
- (t) Silt;
- (u) Soaps;
- (v) Solid Waste;
- (w) Solids in quantities or of such size capable of causing interference or obstruction to the flow in storm water management systems;
- (x) Steam cleaning waste;
- (y) Toxic, hazardous, biomedical, or poisonous solids or liquids.

## Section 6. PROHIBITIONS

### 6.01 Illicit Discharges, Spills and Dumping.

- (a) General Prohibitions. Except as set forth under Section 4.01(h) of this ordinance or in accordance with a valid NPDES permit, any non-stormwater discharge to the stormwater system is prohibited.
- (b) Specific Prohibitions. Any discharge to the stormwater system containing any sewage, industrial waste or other waste materials, or containing any materials in violation of federal, state, county or other laws, rules, or regulations is prohibited.

6.02 Illicit Connections. No person may maintain, use or establish any direct or indirect physical connection to the stormwater system that results in any discharge in violation of this Ordinance. This prohibition is retroactive and applies to connections made in the past, regardless of whether made under a permit, or other authorization, or whether permissible under laws or practices applicable or prevailing at the time the connection was made.

## Section 7. MATERIALS MANAGEMENT PRACTICES

Non-residential facilities constructed after the effective date of this Ordinance in unincorporated Palm Beach County shall be required to implement structural or non-structural

1 measures to prevent exposure of substances or contaminants  
2 which cause or contribute to stormwater pollution to  
3 precipitation and subsequent entry into the stormwater system.  
4 The required measures include, but are not limited to, covered  
5 storage, containment or materials management practices.  
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7 Section 8.0 MONITORING

8 8.01 Authority For Monitoring and Sampling. Upon  
9 reasonable belief that a violation exists any Authorized  
10 Official may establish on any property such devices as are  
11 necessary to conduct sampling or metering of discharges to the  
12 stormwater system. During any inspections made to enforce the  
13 provisions of this ordinance, any Authorized Official may take  
14 any samples deemed necessary. Within municipalities, sampling  
15 shall not proceed without notification of that municipality.

16 8.02 NPDES Permits. Any Person who holds a NPDES permit  
17 and discharges to a stormwater system owned and operated by  
18 Palm Beach County shall provide a copy of such permit to ERM  
19 when made available to the permittee.  
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21 Section 9. VIOLATIONS, ENFORCEMENT, PENALTIES

22 Groundwater and Natural Resources Protection Board.

23 (a) Failure to comply with the requirements of this  
24 Ordinance shall constitute a violation of this  
25 Ordinance. Violations of the provisions of this  
26 Ordinance shall, upon conviction, be punished  
27 by a fine not to exceed five hundred dollars  
28 (\$500) per day, per violation, or by  
29 imprisonment in the County jail not to exceed  
30 sixty (60) days or by both fine and  
31 imprisonment pursuant to the provisions of  
32 Section 125.69, F.S.. In addition to the  
33 sanctions contained herein, the County may take  
34 any other appropriate legal action, including  
35 but not limited to emergency injunctive action,  
36 to enforce the provisions of this Ordinance.  
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1 (b) Violations of this Ordinance may also be  
2 referred by ERM to the Groundwater and Natural  
3 Resources Protection Board (GNRPB) for  
4 corrective actions and civil penalties. The  
5 decision of the GNRPB shall be final  
6 administrative action on behalf of the  
7 Department and the County. Any person who is a  
8 party to the proceeding before the GNRPB may  
9 appeal to the Circuit Court of Palm Beach  
10 County in accordance with applicable Florida  
11 Appellate Rules. Funds collected pursuant to  
12 administrative penalties levied by the GNRPB  
13 for violations of this Ordinance shall be  
14 deposited in the Palm Beach County Pollution  
15 Recovery Trust Fund, or such other place as may  
16 be designated by Resolution of the Board of  
17 County Commissioners.

18  
19 Section 10. REPEAL OF LAWS IN CONFLICT

20 All local laws and ordinances applying to Palm Beach  
21 County in conflict with any provisions of this Ordinance are  
22 hereby repealed to the extent of such conflict.

23  
24 Section 11. SEVERABILITY

25 If any section, paragraph, sentence, clause, phrase, or  
26 word of this Ordinance is for any reason held by the Court to  
27 be unconstitutional, inoperative, or void, such holding shall  
28 not affect the remainder of this Ordinance.

29  
30 Section 12. INCLUSION IN THE CODE OF LAWS AND ORDINANCES

31 The provisions of this Ordinance shall become and be made  
32 a part of the code of laws and ordinances of Palm Beach  
33 County, Florida. The Sections of this ordinance may be  
34 renumbered or relettered to accomplish such, and the word  
35 "ordinance" may be changed to "section," "article," or any  
36 other appropriate word.  
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Section 13. EFFECTIVE DATE

The provisions of this Ordinance shall become effective upon receipt of acknowledgement by the Secretary of State.

APPROVED AND ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on the 20th day of JULY, 19 93.

PALM BEACH COUNTY, FLORIDA, BY ITS BOARD OF COUNTY COMMISSIONERS

By

Chairman

DOROTHY H. WILKEN, Clerk  
Board of County Commissioners

By

DEPUTY CLERK

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

County Attorney

Acknowledgement by the Department of State of the State of Florida, on this, the 26th day of July, 19 93.

EFFECTIVE DATE: Acknowledgement from the Department of State received on the 27th day of July, 19 93, at 10:11 A.M., and filed in the Office of the Clerk of the Board of County Commissioners of Palm Beach County, Florida.

STATE OF FLORIDA, COUNTY OF PALM BEACH  
I, DOROTHY H. WILKEN, ex-officio Clerk of the  
Board of County Commissioners certify this to be a  
true and correct copy of the original filed in my office  
on 7/20/93

DATED at West Palm Beach, FL on 7/27/93  
DOROTHY H. WILKEN, Clerk

By:

Deputy Clerk